

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

In re:

**LISA MARIE EDWARDS,
aka Lisa Forde, aka Lisa Davis
DALMA SYLVESTER EDWARDS,
aka Mike Edwards
Debtors.**

CaseNo. 13-70513-SCS

Chapter 7

**KEVIN P. O'CONNELL
SHANNON K. O'CONNELL,
Plaintiffs/Movants**

V.

**LISA MARIE EDWARDS,
Aka Lisa Forde, aka Lisa Davis
DALMA SYLVESTER EDWARDS
JOHN C. McLEMORE, CHAPTER 7 TRUSTEE,
Defendants/Respondents**

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOTICE OF MOTION AND HEARING

Kevin P. O'Connell and Shannon K. O'Connell, creditors in this case, have filed this Motion for Relief from the Automatic Stay with the Court to obtain relief from the provisions of the automatic stay of the Bankruptcy Code with regard to certain property more particularly described in those papers which are attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion, then no later than fourteen (14) days from the date of service of this motion, you or your attorney must:

File with the Court, at the address shown below, a written response pursuant to Local Bankruptcy Rules 4001(a)-1(C) and 9013(H) explaining your position. If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the expiration of the fourteen (14) day period.

Patrick J. McKenna, Esquire
Virginia Bar ID No. 31058
Counsel for Ocean Beach Club, LLC d/b/a Gold Key Resorts
Post Office Box 3018
Chesapeake, VA 23327
(757) 717-1027

Clerk of Court
United States Bankruptcy Court
4th Floor
Walter E. Hoffman U.S. Courthouse
600 Granby Street
Norfolk, Virginia 23513

You must also mail a copy to:

Patrick J. McKenna, Esq.
Post Office Box 3018
Chesapeake, VA 23327-3018

and

John C. McLemore, Trustee
John C. McLemore, P.C.
500 E. Main Street, Suite 1210
Norfolk, VA 23510

AND

Attend a hearing to be scheduled by the Court to consider and act on upon your response.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further notice or hearing.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

To the Honorable Stephen C. St. John, U.S. Bankruptcy Judge:

COME NOW, Kevin P. O'Connell and Shannon K. O'Connell (the "Movants") by counsel, and move this Court for the entrance of an Order granting them relief from the provisions of the automatic stay of the Bankruptcy Code pursuant to 11 U.S.C. Section 362(d), as amended, regarding the hereinafter described real property. In support thereof, they respectfully represents as follows:

1. This is a core proceeding within the meaning of the Bankruptcy Code and rules.
2. On February 15, 2013, the Debtors filed a petition seeking relief under Chapter 7 of Title 11 of the United States Code, whereupon an Order for Relief was entered.
3. John C. McLemore was appointed and is acting as Trustee of the Debtors' estate under the case.
4. At the time of the Debtors' petition, the Debtors had entered into Residential Lease Agreement with the Movants which contained an Option to

Purchase (hereinafter the "Lease"), pursuant to which the Debtors occupy the residence located at 827 Dorcas Road, Chesapeake, VA 23320. The Lease is attached hereto as Exhibit A and incorporated herein by reference.

5. Prior to the commencement of this Chapter 7 case, the Debtors defaulted under the lease by failing to make their monthly lease payment for the month of February 2013 in the amount of \$2,400.00 in addition to late fees of \$120.00 plus attorney's fees of \$250.00 for a total of \$2,770.00.

6. The Debtors also defaulted under the Lease by failing, pursuant to Paragraph 14 of the Lease, to keep the property in compliance with applicable building and housing code requirements thereby causing the Movants to pay to have electrical and other work done which were the responsibility of the Debtors under the Lease as well as face other potential civil violations. Accordingly, the Movants filed an Unlawful Detainer action in the General District Court, Civil Division, for the City of Chesapeake, Virginia on February 14, 2013. (See attached Exhibit B) Said Unlawful Detainer action has since been withdrawn due to the filing of the Debtors' Bankruptcy petition.

7. Since the commencement of this Chapter 7 case, the Debtors have further defaulted under the Lease by failing to pay the rent that has accrued post-petition for the month of March in the amount of \$2,400.00 in addition to late fees in the amount of \$120.00 for a total amount of \$2,520.00.

8. Since the commencement of the case, the Debtors have continued to fail to keep the property in compliance with applicable building and housing code requirements and have not addressed any of the issues raised by the City of Chesapeake in various building inspections that have been conducted.

9. The Movants reserve the right to specify any additional payment default or delinquency that may accrue between the filing date of this Motion and the time of any hearings scheduled with regard to it.

10. The Debtors defaulted under the Lease both prior to and have continued in default since the commencement of the Chapter 7 case, by failing to provide the Movants evidence of proof of the purchase of liability insurance policy which is presently in force pursuant to Paragraph 14A of the Lease.

11. The Movants are prevented by the automatic stay from proceeding to exercise their rights under the aforementioned Lease despite the Debtors' default and lack of performance under the Lease.

12. In light of the above facts, the Movants assert that cause exists under 11 U.S.C. Sections 362(d)(1) for termination of the automatic stay.

13. The Trustee has not moved to assume the Lease nor cure the above alleged default as of the filing of this Motion.

14. Due to the ongoing payment default; continuing issues with the City of Chesapeake because of the Debtors failure to keep the property in compliance with applicable building and housing code requirements; and the failure to provide proof of liability insurance, the Movants ask that the stay of a grant of relief imposed pursuant to the provisions of Rule 4001(a)(3) of the Bankruptcy Rules be waived.

WHEREFORE, Kevin P. O'Connell and Shannon K. O'Connell pray that that it be granted relief from the provisions of the automatic stay of the Bankruptcy Code with regard to the property located at 827 Dorcas Road, Chesapeake, VA 23320 that they may exercise their default rights and remedies under the Lease, including any act necessary to recover possession of the leased property from the Debtors and that the stay of such grant of relief imposed pursuant to the provisions of Rule 4001(a)(3) of the Bankruptcy Rules be waived and such other further relief as the Court may deem just.

Dated this 21st day of March 2013.

KEVIN P. O'CONNELL
SHANNON K. O'CONNELL

BY: /s/Patrick J. McKenna
Patrick J. McKenna
Counsel for the Plaintiff
P.O. Box 3018
Chesapeake, VA 23327

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice and Motion for Relief from the Automatic Stay was submitted for electronic transmission and/or mailed, first class, postage prepaid, this 21st day of March 2013, to John C. McLemore, Trustee and Lisa Maria Edwards and Dalma Sylvester Edwards, 827 Dorcas Road, Chesapeake, VA 23320.

/s/Patrick J. McKenna
Patrick J. McKenna